

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

&

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 12TH FEBRUARY 2007 / 23RD MAGHA 1928

MACA.No. 228 of 2004

OPMV.24/1999 of MOTOR ACCIDENT CLAIMS TRIBUNAL, TIRUR

APPELLANTS/PETITIONERS

1. ANAS (MINOR, AGED 8 YEARS)
S/O. THE DECEASED HANEEFA (DATE OF BRITH 7.8.99)
2. ASIF (MINOR) AGED 6 YEARS,
S/O. THE DECEASED HANEEFA (DATE OF BRITH 8.6.1992
ARE REPRESENTED BY GUARDIAN FATHER'S BROTHER
MOOSAKUTTY, RESIDING AT THURAKKAL HOUSE,
P.O. KUMBIDI, PALAKKAD DISTRICT.
3. MOIDEEN, AGED 60 YEARS S/O. KUTTU., FATHER OF THE DECEASED.
4. PATHUMMA, AGED 50 YEARS, W/O. MOIDEEN, MOTHER OF THE DECEASED.
5. KUTTU S/O. MOIDEEN, AGED 33 YEARS, BROTHER OF THE DECEASED.
6. RAMLA D/O. MOIDEEN, AGED 24 YEARS, SISTER OF THE DECEASED.
ALL ARE RESIDING AT CHERUPARAMBIL HOUSE,
P.O.KODAKKAL, AJITHAPADI, TIRUR TALUK

BY ADV. SRI.ESM.KABEER

RESPONDENTS: RESPONDENTS

1. K.V.SURESH S/O. VELAYUDHAN, KADAVIL
HOUSE, AYYANTHOL, THRISSUR.
(DRIVER OF THE BUS NO.KL-8C/5556)
2. E.K.IMBACHAN, ILLELA VALAPPIL HOUSE, AMALA NAGAR, THRISSUR.
(R.C.OWNER OF THE BUS NO.KL-8C/5556)
3. THE ORIENTAL INSURANCE CO. LTD., THRISSUR.
(INSURER OF THE BUS NO. KL-8C/5556)

BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA)

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION
ON 12/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. Raman & S. Siri Jagan, JJ.

M.A.C.A. No. 228 of 2004

Dated this, the 12th February, 2007.

J U D G M E N T

Raman, J.

This appeal is against the judgment of the M.A.C.T., Tirur dated 30-5-2002 in O.P(MV) No. 24/1999. The only point urged by the learned counsel for the appellant is that the income fixed by the court below is too low. According to him, the deceased was employed abroad and was getting a salary of Rs. 5,000/- p.m. But, there is nothing on record to prove either employment or the salary said to have been received by him. It is in such circumstances that the Tribunal has fixed even a notional income of Rs. 2500/-. The burden of proof regarding the income being on the claimants and they having failed to do so, we do not find any fault with the Tribunal for fixing the compensation.

We find no grounds to interfere with the award. The appeal is therefore dismissed.

Sd/- P.R. Raman Judge.

Sd/- S. Siri Jagan, Judge.

Tds/

[True copy]

P.S to Judge.

-: 2 :-

P.R. Raman & S. Siri Jagan, JJ.

==--==--==--==--==--==--==--==--==

M.A.C.A. No. 228 of 2004

==--==--==--==--==--==--==--==--==

J U D G M E N T

12th February, 2007.